

These minutes are a summary of the discussion. The audible recording is available at the following website: <http://bit.ly/T3S7CB>

Planning & Zoning Commission Meeting
Minutes of March 6, 2013
1st Floor North Conference Room - City Hall

Present: Chairman Nathaniel Cannady, Vice-Chairman Jeremy Goldstein (excused from meeting at 5:24 p.m.), Kristy Carter, Jane Gianvito Mathews and Joe Minicozzi

Absent: Holly P. Shriner (Paul Smith resigned)

Pre-Meeting - 4:30 p.m.

At the Commission's pre-meeting, (1) the Commission discussed a conflict of interest for Vice-Chairman Goldstein on one item, for which he would request recusal; and his business relationship to another item which would not be a conflict of interest but which he would publicly disclose; (2) the staff handed out maps and final information regarding the annual retreat to be held on Friday, March 8; and (3) the staff informed the Commission about a range of potential legislation pending at the General Assembly which would significantly impact the City.

Regular Meeting - 5:00 p.m.

Chairman Cannady called the meeting to order at 5:00 p.m. and informed the audience of the public hearing process.

Administrative

- ? Ms. Mathews moved to approve the minutes of the February 6, 2013, meeting, with one clarification. This motion was seconded by Vice-Chairman Goldstein and carried unanimously by a 5-0 vote.
- ? Chairman Cannady noted that the conditional zoning request for Carman Residence has been withdrawn.

Agenda Items

- (1) **Request for a Conditional Zoning of the project identified as Myra Village located at 11 Myra Place, from RS-4 Residential Single-Family Medium Density District to RM-6 Residential Multi-Family Low Density District/Conditional Zoning for a nine unit multi-family development, including the completion of partially-constructed structures from a previous project and includes a modification to allow parking within a property line buffer. The owner is Myra Properties, LLC and the contact is James Mock, PE. The property is identified in the Buncombe County tax records as PIN 9618-90-9765. Planner coordinating review – Jessica Bernstein.**

Urban Planner Jessica Bernstein oriented the Commission to the site location and said that the applicant is requesting a Conditional Zoning for one parcel located at 11 Myra Place from RS-4 (Residential Single-Family Medium Density District) to RM-6 (Residential Multi-Family Low Density District) in accordance with Section 7-7-8 of the UDO, for the development of a nine unit residential proposal.

The project site consists of a 1.89 acre parcel located at Myra Place, Old Haywood Road and East Starnes Cove Road and is zoned RS -4. Surrounding properties are zoned RS -4 (residential uses) with HB adjacent to the south.

This site has been partially developed according to a previous approval (Conditional Use Permit #07-6306). In June 2012, City Council amended the 2008 approval (via Ordinance 4089) to reduce the scale of the development proposal.

The applicant is proposing a nine-unit multi-family residential development, housed within four structures. Plans propose three duplexes and one triplex containing four two-bedroom and five three-bedroom units. The two duplex structures at either end of the site are currently 90% complete from a previous approval. Plans indicate completion of the development in three phases.

The site will be accessed in three locations. There are two driveways from Myra Place, each accessing a small parking area (10 spaces at the southern lot and eight spaces at the northern lot). Additionally there is a single driveway from Old Haywood Road that provides access to individual drives / garages for the duplex and triplex located in the center of the site. Bike parking is required.

Old Haywood Road is identified as a needed linkage; however, sidewalk construction is not be required for a development with less than 10 units. An easement for future construction will be provided. No sidewalks are provided or required along Myra Place. There is a 5-foot wide sidewalk/pathway proposed throughout the interior of the project, connecting the common parking areas to the units.

Landscaping is required for this project and includes a Type A (20') property line buffer against adjacent RS-zoned properties, street buffer, street trees, parking lot and building impact landscaping.

Open space is required for this project, with 15% of the site designated (0.28 acres). Additionally, 30% of the total site is identified as "tree save area."

The applicant is requesting the following standard to be modified, based on existing conditions from the partial construction and previous approvals for the site.

- **Encroachment:** Parking is not permitted within a property line buffer but there is a very small area where the northernmost parking lot encroaches into the Type A buffer. This modification will need to be approved by City Council.

This proposal was approved with conditions by the Technical Review Committee on February 18, 2013. No opposition or communication has been received as of the writing of this report.

Section 7-7-8(d)(2) of the Unified Development Ordinance (UDO) states that planning staff shall evaluate conditional zoning applications on the basis of the criteria for conditional use permits set out in Section 7-16-2. Reviewing boards may consider these criteria; however, they are not bound to act based on whether a request meets all seven standards.

1. That the proposed use or development of the land will not materially endanger the public health or safety.

The proposed project has been reviewed by City staff and appears to meet all public health and safety related requirements. The project must meet the technical standards set forth in the *UDO*, the *Standards and Specifications Manual*, the *North Carolina Building Code* and other applicable laws and standards that protect the public health and safety.

2. That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate

vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.

The proposed use and development of the land is compatible with the natural features and topography of the site. The parcel was graded with the (stalled) construction and this proposal will complete the work at either end of the site and add two buildings between them, more closely resembling the 2008 approval for the location. The landscaping proposed is fitting and compatible with the adjacent residential neighborhood. There are no significant topographic features on the site.

3. That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.

The proposed residential use is compatible with the surrounding residential neighborhood and should not injure the value of nearby properties. With the underlying RS-4 zoning between 5-8 units would be permitted by right. The proposed zoning, RM-6, is the lowest density multi-family zoning district and would permit 11 residential units. The applicant is only proposing nine units, so this proposal is not significantly outside of the current allowed density. Additionally, completing the construction and closing out a stalled construction site should benefit the neighborhood.

4. That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.

The proposed residential use is consistent with the surrounding neighborhood. Although duplexes and triplex structures are not permitted by-right in the surrounding single-family zoning district, these structures are single-story and will have a similar, lower impact residential profile (with one exception of the existing two-story duplex at the southernmost end of the site adjacent to Highway Business zoning). Additionally, as mentioned in Condition 3, the proposal for nine units is not significantly outside of the current allowed density for the site.

5. That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.

City-adopted plans and policies encourage infill development and greater density where appropriate. This location has (some) existing infrastructure, is appropriately sited and provides residential options.

6. That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.

This site is located just off I-240/Patton Avenue, which places the project in an easily accessible location by car and Asheville transit (old rt. 15 – new W3). The project has been reviewed by the Technical Review Committee and has been found to have adequate access to infrastructure.

7. That the proposed use will not cause undue traffic congestion or create a traffic hazard.

The proposed project has been reviewed by the City's traffic engineer and is not expected to cause undue traffic congestion or create a traffic hazard.

Pros:

- ? The proposal is aligned with Council's goals for infill development and additional residential density where appropriate.
- ? This action will allow for an open, stalled construction site to be completed.

Cons:

- ? A (small) modification is needed to allow parking within a property line buffer.
- ? Although not significantly out of scale, the proposed duplex and triplex structures and surface parking are not entirely visually consistent with single-family zoning.

Based on the above findings, staff recommends approval of the conditional zoning request and approval of the modification as requested by the applicant, subject to the standard conditions and the condition that the sidewalk easement must be recorded prior to final zoning approval.

Mr. Mercer, engineer for the project, said that they will be filling in an originally proposed project and asked for the Commission's support.

When Ms. Mathews questioned how trash would be handled, Mr. Mercer said that the trash will be handled individually since it will be home ownership.

Chairman Cannady opened the public hearing at 5:06 p.m. and when no one spoke, he closed the public hearing at 5:06 p.m.

Based on the above findings and the analysis provided in the report, Vice-Chairman Goldstein moved to recommend approval of the conditional zoning of the project identified as Myra Village located at 11 Myra Place, from RS-4 Residential Single-Family Medium Density District to RM-6 Residential Multi-Family Low Density District/Conditional Zoning for a nine unit multi-family development, including the completion of partially-constructed structures from a previous project and approval of the modification request to allow parking within a property line buffer, subject to the following conditions (1) The project shall comply with all conditions outlined in the TRC staff report; (2) This project will undergo final review by the TRC prior to the issuance of any site development permits; (3) All site lighting must comply with the City's Lighting Ordinance, Section 7-11-10, of the Unified Development Ordinance. A detailed lighting plan illustrating compliance with the ordinance will be required upon submittal of detailed plans to be reviewed by the Technical Review Committee; (4) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; (5) The building design, construction materials and orientation on site must comply with the conceptual site plan and building elevations presented with this application. Any deviation from these plans may result in reconsideration of the project by the reviewing boards; and (6) The sidewalk easement must be recorded prior to final zoning approval. This motion was seconded by Ms. Mathews and carried unanimously by a 5-0 vote.

(2) Request to rezone property located at 10 Old Shoals Road from Highway Business District to Commercial Industrial District. The petitioner is Lisa Stephens, agent for M Realty, LLC. The property is identified as a portion of PIN 9654-11-5212. Planner coordinating review – Blake Esselstyn.

Urban Planner Blake Esselstyn oriented the Commission to the site location and said that the subject area for this rezoning petition is about one-sixth of the entire parcel as shown in the Buncombe County Land Records. The portion of the parcel which is proposed for rezoning has dissimilar zoning from the rest of the parcel; in fact the parcel has three separate zoning designations. The zoning district boundaries correspond to tract boundaries shown in recent plats, but recent recombinations of property have assembled what were separate tracts under one PIN, partly zoned RM-16, partly zoned CI, and partly zoned HB. By rezoning the HB portion to CI, the proposed rezoning would (at least partly) be addressing the less than ideal split-zoning situation.

The subject area, roughly quadrilateral in shape, has four zoning districts on its four sides: RM-16(CZ), HB, CI, and Industrial. The proposed rezoning would make the property consistent with the zoning to the north rather than that to the south.

This area was initially zoned by the City in 2009. At that time, the applicant requested HB zoning to allow for a projected retail development on the site. As was acknowledged in the recent conditional zoning to the south (also noted above), the applicant has since decided not to pursue such a development, and instead to add manufactured home sites there and seek new tenants for the building at 10 Old Shoals Road. Had it not been for this request in 2009, the subject area might well have been initially zoned CI.

The HB and CI districts are both considered high impact zoning districts, but there are a handful of uses permitted in CI which would not be permitted in HB which are of interest to the applicant. The likely candidates at this location are light industrial uses, industrial uses, warehousing and storage, and possibly a recycling operation. The applicant has stated: "This is a purely industrial building. It has no heat nor air except in the office/restroom area and really could not be retrofitted for any other purpose. There is also very limited parking."

The most obvious concern with a CI zoning designation would be incompatibility with the residential area to the south, especially since the location of the building leaves limited space available for a landscape buffer. Both the Planning and Zoning Commission and City Council, however, supported the recent conditional zoning of the residential area, knowing there was a high-impact zoning area to the east (under the same ownership), and allowed reduced setbacks and no additional buffering as part of the approval.

Further, the vast majority of the Wellington Estates Park perimeter is already adjacent to CI zoning, so the proposed zoning designation would not be creating an exceptional conflict. In addition, if the facility is occupied by a higher-impact use than the current storage/warehousing use, such as manufacturing, assembly, or processing, such a change would trigger compliance with landscaping standards, including buffers – though alternative compliance would likely be sought, owing to the narrow area between the building's south side and the property line.

As of this writing, staff has received no communications from the public regarding the petition in question.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

Pros:

- ? Is suitable for the subject area and consistent with other adjacent and nearby zoning.
- ? Would resolve a split-zoning situation.

Con:

- ? Space available for buffer from adjacent residential area is less than required in UDO.

Staff recommends approval, noting that the difference between the existing zoning district and the proposed district is relatively minor, especially given that the most dissimilar nearby use is already largely surrounded by the proposed district. Additionally, the rezoning would add possible uses for the site, which, if introduced onto it, would require bringing currently non-compliant aspects of the development into compliance.

Mr. George Morosani, developer, stated that it is his hope to rezone the property back to the original zoning and it was his intent to keep the building that is on the property now.

In response to Mr. Minicozzi, Mr. Esselstyn said that they did not look at Light Industrial Zoning because they would be concerned with spot zoning.

Chairman Cannady opened the public hearing at 5:12 p.m. and when no one spoke, he closed the public hearing at 5:12 p.m.

Based on the above findings and the analysis provided in the report, Mr. Minicozzi moved to recommend approval of the rezoning of 10 Old Shoals Road from Highway Business District to Commercial Industrial District. This motion was seconded by Ms. Mathews and carried unanimously by a 5-0 vote.

- (3) A request for a review of a Level II site plan for the project identified as Marriott Courtyard located at 360 Rockwood Road. The project proposes to construct a 68,500 square foot hotel building containing 91 rooms. The property owner is Rockwood Hospitality and the contact is Joseph Harris. The property is identified in the Buncombe County Tax records as PIN 9643.65-4950. Planner coordinating review – Julia Fields.**

After Vice-Chairman Goldstein disclosed that this company represented the owner of this land and sold it to the current owner. It was the opinion of Associate City Attorney Jannice Ashley that Vice-Chairman Goldstein would not have a conflict of interest.

Urban Planner Julia Fields oriented the Commission to the site location and said that the applicant is requesting review of site plans to construct a 91 room hotel on 1.8 acres of property located at 360 Rockwood Road.

The project site is 1.8 acres located at 360 Rockwood Road (PIN 9643.65-4950) and is zoned Highway Business (HB) District. It is located across from the secondary entrance of a major shopping center located on Airport Road.

The proposal is to demolish all existing structures on the property in order to construct a 91 room Courtyard by Marriott Hotel. The proposed structure is five stories in height and 68,500 square feet in size. The proposed footprint is 12,660 square feet.

Access is proposed to be via a 24 foot driveway off of Rockwood Road (NCDOT roadway).

Ninety-one parking places are provided (four handicapped spaces). Of these spaces 30 are structured parking with the remainder (61) surface parking.

The City's open space requirement is for 15% of the area to be provided in open space (10,715.20 square feet). 12,564 square feet of open space is provided. Landscaping which includes street buffer, street trees, parking lot landscaping, and building impact landscaping meets or exceeds City standards.

Staff recommends approval. The project meets (or will be able to meet) all technical standards.

Chairman Cannady opened the public hearing at 5:20 p.m. and when no one spoke, he closed the public hearing at 5:20 p.m.

In response to Mr. Minicozzi, the civil engineer for the project showed where the walkway would be located.

Based on the above findings and the analysis provided in the report, Ms. Carter moved to recommend approval of the Level II site plan for the project identified as Marriott Courtyard located at 360 Rockwood Road to construct a 68,500 square foot hotel building containing 91 rooms, subject to the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) All site lighting must comply with the City's Lighting Ordinance and be equipped with cut-off fixtures or full cut-off fixtures and directed away from adjoining properties and streets. A detailed lighting plan will be required upon submittal of detailed plans to

be reviewed by the Technical Review Committee; (3) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; (4) The building design, construction materials and orientation on site must comply with the conceptual site plan and building elevations presented with this application. Any deviation from these plans may result in reconsideration of the project by the reviewing boards; and (5) This project will undergo final review by the TRC prior to issuance of any required permits. This motion was seconded by Mr. Minicozzi and carried unanimously by a 5-0 vote.

- (4) Review of Level III site plan for the project identified as the Asheville Market located at 4 South Tunnel Road. The project proposes to redevelop an existing 148,075 square foot retail center including the demolition of 91,600 square feet of floor area and construction of a new 80,104 square foot building for a total of 142,500 square feet of floor area. The request includes modifications to landscape requirements. The owner is Tunnel Road E&A, LLC and the contact is Robert Deutsch. The property is identified in the Buncombe County tax records as PIN 9658-25-5796. Planner coordinating review – Jessica Bernstein.**

Due to a conflict of interest, Ms. Mathews moved to recuse Vice-Chairman Goldstein from participating in this matter. This motion was seconded by Ms. Carter and carried unanimously on a 4-0 vote (Vice-Chairman Goldstein did not vote). Vice-Chairman Goldstein then left the room and the remainder of the meeting.

Urban Planner Jessica Bernstein oriented the Commission to the site location and said that the applicant is requesting approval of site plans for the redevelopment of an existing retail center that will include new construction and partial demolition. This project is considered a Level III review pursuant to Section 7-5-9(a) of the UDO which designates review for commercial uses of over 100,000 square feet. Level III projects are reviewed as Conditional Use Permits in the Regional Business District.

The site consists of a 13.13 acre parcel located at 4 South Tunnel Road (13.33 total project area – 0.20 acres on an adjacent leased parcel). The area is zoned Regional Business and is currently the location of a strip shopping center with various tenants, formerly anchored by Kmart (recently closed). The site is bordered by Interstate 240 to the east, similar strip retail centers to the north and south and the Asheville Mall is across Tunnel Road to the west.

The proposal is to redevelop an existing retail center with new construction, renovation and full parking lot and site compliance. Approximately 91,600 square feet of existing building will be demolished with 80,104 square feet rebuilt for a proposed total of 136,566 square feet (142,500 SF maximum). There are nine retail spaces designated on the plans (four new, five existing), all single-story; however several of the larger spaces may be broken down into multiple, smaller retail spaces as tenants are identified. Plans indicate 121,566 square feet designated for retail with 15,000 square feet for restaurant use.

The existing Tunnel Vision building will be demolished but the business will be relocated within the site. The only other tenant identified at this time is a Whole Foods market.

New construction and the renovated structures will include aesthetic elements such as brick masonry (both painted and unpainted), wood-lined façades, steel lintels and wood soffits creating open storefronts, covered canopies and other details to break up the façades and create visual interest. The Whole Foods will include an outdoor patio with seating and a fireplace.

The site is currently accessed in two locations from South Tunnel Road and these driveway cuts will remain. Each access point includes three travel lanes; one ingress into the site and two egress lanes with one right-turn only lane and a lane for both straight and left turning. The northernmost driveway will be re-oriented from its current interior layout.

The existing parking field will be reorganized and provides a total of 576 spaces, including 20 handicapped-accessible spaces dispersed throughout the site. There are 30 bike parking spaces. Additionally, plans show two designated charging stations for electric cars.

Sidewalks are to be provided along the entire frontage of the property as well as pedestrian pathways into the site along each driveway. There is a transit shelter shown at the northernmost driveway.

Landscaping is required for this project and includes street trees, street buffer, parking lot landscaping, building impact landscaping and screening of dumpsters. *See below for landscaping modification request.*

Open space is not required for this proposal because the redevelopment does not result in additional square footage.

The application is requesting the following standards to be modified, based on the challenges of the site and upgrading an existing development:

1. *Landscape Island Width* – The applicant is requesting to reduce the average width of the landscape islands, creating some irregularly-shaped islands due to the challenges of working within an existing development. Some islands will be greater than the required minimum while some are slightly below. In three locations, the narrowest width is 7 feet.
2. *Building Impact and Parking Lot Landscaping* – Because of the existing nature of this development, the applicant is requesting to include less than the required number of plantings that would be needed for a new development. This proposal shows significantly more than the required number of shrubs but fewer trees. The lot will be significantly shaded and landscaped.

This proposal was approved with conditions by the Technical Review Committee on February 4, 2013.

Staff has been contacted by the owner of the AT&T store immediately adjacent to the south. Currently, there is shared internal access between the subject property and the AT&T parcel and the owner would like for that to be maintained. The applicant has eliminated that connection due to topographic challenges with reorganizing the parking fields. During the Level I review for the AT&T site in 2011, no shared access or parking agreements were required or maintained due to the fact that the AT&T site complies on its own parcel with respect to parking and maneuvering and also has its own driveway directly onto South Tunnel Road.

City Council must take formal action as set forth in Section 7-5-5(e)(3) of the Unified Development Ordinance (UDO), and must find that all seven standards for approval of conditional uses are met based on the evidence and testimony received at the public hearing or otherwise appearing in the record of this case pursuant to Section 7-16-2(c). Staff's review indicates that all seven standards are met as proposed in the site plan.

1. That the proposed use or development of the land will not materially endanger the public health or safety.

The proposed project has been reviewed by City staff and appears to meet all public health and safety related requirements. The project must meet the technical standards set forth in the *UDO*, the *Standards and Specifications Manual*, the *North Carolina Building Code* and other applicable laws and standards that protect the public health and safety.

2. **That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.**

The site is an existing retail shopping center and will not change significantly in terms of layout. The new development is in-line with the past building footprint so there is not a major change to the site in terms of grading or earth moving. There are a few small retaining walls needed due to the existing topography of the site, otherwise, the proposed use and development remains compatible with the site.

3. **That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.**

The overall proposal includes multiple upgrades and amenities that should improve the value of the area and should not injure the value of adjoining or abutting properties. Aesthetic improvements to existing structures that are aligned with the new development will create a visually cohesive retail center and the improvements to the parking field, including landscaping, will enhance the overall site.

4. **That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.**

Because this is an existing retail shopping center and since the new development and renovation is for the same or similar uses, the proposed use remains in harmony with the surrounding Tunnel Road retail corridor. The aesthetic upgrades to both building and site will enhance the character of the area and may encourage design or compliance improvements to other commercial developments in the area.

5. **That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.**

Elements of the overall project are directly aligned with the City's goals and objectives including multi-modal transportation elements (sidewalks, bike racks, electric vehicle charging stations, transit shelter) and commercial investment in a location with existing infrastructure.

6. **That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.**

The site is located in an area supported by transit (E1 & E2) and easily accessible by vehicle. Adequate water supply, fire and police protection, waste disposal and similar facilities are verified during the TRC review process. Associated infrastructure improvements will enhance multi-modal access, emergency protection, waste disposal and water supply.

7. **That the proposed use will not cause undue traffic congestion or create a traffic hazard.**

Existing infrastructure is adequate to handle traffic generated by this change of use. The project will create a reduction of 11,500 square feet of retail space. A traffic impact study is not required because the result of the project will be a net decrease in generated traffic. The proposed project is not expected to cause undue traffic congestion or create a traffic hazard.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

Pros:

- ? The proposal revitalizes an existing commercial retail center with aesthetic improvements, creating a visually cohesive and updated appearance.
- ? Significant landscaping will be added to the large parking field, which is currently void of most vegetation.
- ? Sidewalks will be provided along the frontage and a transit shelter will be included.

Cons:

- ? Due to the challenges of working within an existing development, plans do not comply with parking lot landscaping and a modification is needed.
- ? Concern has been expressed regarding the elimination of an interior connection to an adjacent parcel.

Staff recommends approval of the Level III Conditional Use Permit for the Asheville Market (with the standard conditions) and supports the request to modify landscaping standards based on the challenges inherent in working with a previously developed site.

Mr. Lyle Darnell, representing Edens, developer/owner of the property, said they own 130 shopping centers up and down the east coast and they are primarily grocery-anchored centers. They focus is on a unique design in shopping centers and to make sure they create a good and interesting merchandising mix that ultimately leads to better community engagement. They bought the center back in May of 2004 and their intent has always been to redevelop the shopping center but had to wait until the leases of current tenants expired. They were able to convince Whole Foods to come to this project, noting that they have just completed developing two other Whole Foods in other states. The shopping center is not appealing at this time, but the location is ideal. The ultimate goal of the development is creating something that is non-Tunnel Road-ish. They want to build something that is very respectful for Asheville but it will be a little unique. There will be a promotion of pedestrian access throughout the center. Edens will be investing \$17.5 Million in the project and as other retailers come, they will increase that investment up to \$27.5-30 Million. They hope to begin demolition of the K-Mart piece in late June with a target date of Whole Foods opening in early September, 2014.

In response to Chairman Cannady, Mr. Darnell said that they will be raising the area of Whole Foods approximately 2 feet, and the majority of the parking lot will be regarded for a more user-friendly parking environment.

In response to Ms. Carter, the City's Traffic Engineer Jeff Moore showed where there will be two crosswalks across Tunnel Road.

When Mr. Minicozzi asked if there was a pedestrian connection from the front of Building H to the bus stop on Tunnel Road, Mr. Jim McKinney, engineer for the project, said that they have agreed to do that connection and it will shown as part of the final plan. He pointed out that the access will have stairs but will not be Americans with Disabilities Act (ADA) accessible, although there will be an access on both of the other roads that will be ADA accessible.

Mr. Minicozzi said that the site is allowed to have an urban village and wondered if the developer might consider that for a future use on the property, since there will be various mixed uses on the property. Mr. Darnell said that they have considered a lot of things for the property and would keep that in mind for future phases.

Chairman Cannady opened the public hearing at 5:47 p.m.

Mr. Lavoy Spooner, representing AT&T, said they have already discussed the cross access to their property with the developer. He said the cross access is the primary access to their store and if it is blocked off by landscaping, it will leave only the secondary entrance to the store. That will significantly impact their business in a negative way. They feel it's inappropriate

for that negative impact to happen just because of landscaping. If this is approved to move forward, they requested that it be contingent upon the developer negotiating with AT&T to see if they can maintain some sort of primary access from the current access.

In response to Chairman Cannady, Mr. Jack Somers, owner of the AT&T building, said that there was a deeded access from 1997 to 2008, but when the property transitioned in 2008, a deeded access was not obtained. However, it is an established traffic flow pattern.

Chairman Cannady closed the public hearing at 5:50 p.m.

Discussion occurred, initiated by Mr. Minicozzi, regarding the elimination of the interior connection to the AT&T store due to the new driveway. The new driveway will eliminate the parking on the right side of the AT&T store. Mr. Simmons, the project's civil engineer, said they did look at connectivity but explained why it is problematic for them to keep that interior connection open, which was from a grade difference, very close proximity to the intersection causing a conflict movement, and ADA compliant sidewalk to Tunnel Road. Mr. McKinney said that they are not intentionally trying to cut the parking out for AT&T, but to come up with a good design for their project, the new driveway is something they have to do. In addition, they believe the AT&T building already has an access adequate for the 3,000 square foot building (with 20 parking spaces).

In response to Ms. Mathews, Ms. Bernstein said that the parking lot on the right side of the AT&T building is part of the developer's property, but AT&T has adequate parking even with the elimination of the parking spaces for the new driveway.

In response to Chairman Cannady, Interim Director of Development Services Shannon Tuch, said that the AT&T deeded easement expired in 2008 and it wasn't renewed. The AT&T building was built in 2011 knowing that they didn't have a permitted easement. Full access currently exists. This project is removing one entrance, but not changing the entrance that AT&T retains.

Ms. Spooner said that their concern is for their customers. To restrict them to the driveway on the left of the AT&T building is a safety concern for their customers going south. We are asking for time to negotiate with the developer to see if there is some way to have access to the parking lot and not be restricted to the one access to the left of the building.

Mr. Moore responded to the safety concerns outlined by AT&T, noting that Tunnel Road is maintained by the N.C. Dept. of Transportation.

When Ms. Carter asked about striping the main entrance with bike lanes, Mr. McKinney said that they did not consider that for this typically sized center. They would look for the bikes to share the driveway.

Chairman Cannady noted that this is a condition use permit and the Commission must agree that the seven conditions are met. He was concerned about condition 1 (safety) and condition 3 (negatively affecting the value of abutting property).

Ms. Mathews felt that this project does not violate any of the seven conditional standards for a conditional use permit. AT&T did develop at a time when they knew they didn't have access legally. She felt it was very unfortunate that the AT&T development did not obtain an easement, but it was permitted based on rules.

Mr. Minicozzi agreed with Ms. Mathews and felt that if there was no other access for AT&T he would feel differently. Even though AT&T's access is inconvenient it is still an access. He hoped there would be another opportunity for AT&T and the developer to sit down to see about some sort of access for AT&T.

All members of the Commission sympathized with AT&T over the elimination of the access for AT&T; however, they understood the reasons for the current driveway design.

Based on the above findings and the analysis provided in the report, Ms. Mathews moved to recommend adoption of the proposed Master Plan for the project identified as the Asheville Market located at 4 South Tunnel Road, to redevelop an existing 148,075 square foot retail center including the demolition of 91,600 square feet of floor area and construction of a new 80,104 square foot building for a total of 142,500 square feet of floor area, and approval of the modification requests to the landscape requirements, subject to the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) This project will undergo final review by the TRC prior to the issuance of any site development permits; (3) All site lighting must comply with the City's Lighting Ordinance, Section 7-11-10, of the Unified Development Ordinance. A detailed lighting plan illustrating compliance with the ordinance will be required upon submittal of detailed plans to be reviewed by the Technical Review Committee; (4) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; and (5) The building design, construction materials and orientation on site must comply with the conceptual site plan and building elevations presented with this application. Any deviation from these plans may result in reconsideration of the project by the reviewing boards. This motion was seconded by Ms. Carter.

Mr. Minicozzi asked for a friendly amendment to include (1) a pedestrian connection from the front of Building H to the bus stop on Tunnel Road; and (2) that AT&T and the developer meet to see if they can find common ground on an access for AT&T. Ms. Mathews & Ms. Carter agreed to the friendly amendment.

The amended motion made by Ms. Mathews and seconded by Ms. Carter carried unanimously by a 4-0 vote.

Other Business

Planning & Development Director Judy Daniel reminded the Commission that their retreat will be held on Friday, March 8 in Room 221 of the Highsmith Center on the campus of UNC Asheville from 10 a.m. until 3 p.m.

Chairman Cannady announced the next meeting on April 3, 2013, at 5:00 p.m. in the First Floor Conference Room in the City Hall Building.

Adjournment

At 6:20 p.m., Ms. Mathews moved to adjourn the meeting. This motion was seconded by Mr. Minicozzi and carried unanimously on a 4-0 vote.